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ROBERT ALEXANDER KASEBERG

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

ROBERT ALEXANDER KASEBERG,

Plaintiff,

vs.

CONACO, LLC; TURNER
BROADCASTING SYSTEM; TIME
WARNER, INC.; CONAN O'BRIEN;
JEFF ROSS; MIKE SWEENEY; DOES 1
– 50, inclusive,

Defendants.

Case No. 3:15-cv-01637-JLS-DHB

FIRST AMENDED COMPLAINT FOR
COPYRIGHT INFRINGEMENT

DEMAND FOR JURY TRIAL

Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. This is an action for copyright infringement and for unfair competition arising under the laws of the United States of America, including Title 17, United States

1 Code, § 101, et seq. This Court has personal jurisdiction over Defendants because,
2 among other things, Defendants are doing business in the State of California and in this
3 judicial district, the acts of infringement complained of herein occurred in the State
4 of California and in this judicial district, and Defendants knew Plaintiff resides in this
5 District, Defendants committed an intentional act in the State of California and in this
6 District, Defendants expressly aimed their activities at the State of California and this
7 District and has caused harm and injury to Plaintiff within the State of California and in
8 this judicial district.

9 2. Jurisdiction is conferred upon this Court by Title 28, United States Code §
10 1338.

11 3. Venue is proper under 28 United States Code § 1400(a) and § 1391.

12 **PARTIES TO THE ACTION**

13 4. Plaintiff is an individual residing in San Diego County, California.

14 5. Based on information and belief, Defendant CONACO, LLC is a limited
15 liability company organized under the laws of the State of California and is in the
16 television production industry. Defendant CONACO, LLC is the production company
17 that produces the “Conan” television show.

18 6. Based on information and belief, Defendant TURNER BROADCASTING
19 SYSTEM, INC. (hereinafter “TBS”) is a business organized under the laws of the State
20 of Georgia and has at all pertinent times herein been doing business within the State of
21 California. It is the television station that airs the “Conan” television show.

22 7. Based on information and belief, Defendant TIME WARNER, INC., is a
23 business organized under the laws of the State of Delaware and has at all pertinent times
24 herein been doing business within the State of California. It is the television network
25 that airs the “Conan” television talk show.

26 8. Based on information and belief, Defendant CONAN O’BRIEN is an
27 individual living in Los Angeles, California. He is the creator, executive producer,
28 writer and presenter of the “Conan” television show.

1 9. Based on information and belief, Defendant JEFF ROSS is an individual
2 living in Los Angeles, California. He is an executive producer of the "Conan"
3 television show.

4 10. Based on information and belief, Defendant MIKE SWEENEY is an
5 individual living in Los Angeles, California. He is the head writer at the "Conan"
6 television show.

7 11. "Conan" is a late-night talk show airing each Monday through Thursday on
8 TBS in the United States. "Conan" airs and appears on TBS which is aimed and
9 directed at millions of homes throughout the United States including homes in this
10 District.

11 12. The true names and capacities, whether individual, corporate, associate, or
12 otherwise, of defendants sued herein as Does 1 through 50, are unknown to Plaintiff,
13 who therefore sue said defendants by such fictitious names(the "Doe Defendants").
14 Plaintiff will seek leave of Court to amend this complaint to state their true names and
15 capacities when they have been ascertained. Plaintiff is informed and believes and on
16 that basis avers that the Doe Defendants are liable to Plaintiff as a result of their
17 participation in all or some of the acts hereinafter set forth. CONACO, LLC; TURNER
18 BROADCASTING SYSTEM; TIME WARNER, INC.; CONAN O'BRIEN; JEFF
19 ROSS; MIKE SWEENEY and the Doe Defendants are referred to collectively herein as
20 "Defendants."

21 13. Plaintiff is informed and believes and on that basis avers that at all times
22 mentioned in this complaint, each of the Defendants was the agent and/or alter ego of
23 each of the other Defendants and, in doing the things alleged in this complaint, was
24 acting within the course and scope of such agency.

25 **GENERAL ALLEGATIONS**

26 14. Plaintiff is engaged in the entertainment industry, namely as a comedic
27 writer. Plaintiff resides in this district.
28

1 15. On or about December 2, 2014, Plaintiff published the following literary
2 work on his personal online blog, "The University of Alabama-Birmingham is shutting
3 down its football program. To which the Oakland Raiders said, "Wait, so you can do
4 that?" ("Joke #5") Plaintiff wrote and posted Joke #5 from his home in this district.

5 16. Based on information and belief, on or about December 3, 2014, after
6 Plaintiff had written and posted Joke #5, Joke #5 was featured in the monologue
7 segment of the "Conan" show which was aimed, directed and aired to a national
8 audience which included audiences within this District.

9 17. On or about January 14, 2015, Plaintiff published the following literary
10 work on his personal online blog, "A Delta flight this week took off from Cleveland to
11 New York with just two passengers. And they fought over control of the armrest the
12 entire flight." ("Joke #1). Plaintiff wrote and posted Joke #1 from his home in this
13 District.

14 18. Based on information and belief, on or about January 14, 2015, 2015 after
15 Plaintiff had written and posted Joke #1, Joke #1 was featured in the monologue
16 segment of the "Conan" show which was aimed, directed and aired to a national
17 audience which included audiences within this District.

18 19. On or about February 3, 2015, Plaintiff published the following literary
19 work on his personal online blog and Twitter.com account, "Tom Brady said he wants
20 to give his MVP truck to the man who won the game for the Patriots. So enjoy that
21 truck, Pete Carroll." ("Joke #2). Plaintiff wrote and posted Joke #2 from his home in
22 this District.

23 20. Based on information and belief, on or about February 4, 2015, Joke #2
24 was featured in the monologue segment of the "Conan" show which was aimed,
25 directed and aired to a national audience which included audiences within this District

26 21. On or about February 17, 2015, Plaintiff published the following literary
27 work on his personal online blog and Twitter.com account, "The Washington
28 Monument is ten inches shorter than previously thought. You know the winter has been

1 cold when a monument suffers from shrinkage.” (“Joke #3”). Plaintiff wrote and
2 posted Joke #3 from his home in this District.

3 22. Based on information and belief, on or about February 17, 2015 after
4 Plaintiff had written and posted Joke #3, Joke #3 was featured in the monologue
5 segment of the “Conan” show which was aimed, directed and aired to a national
6 audience which included audiences within this District.

7 23. On or about June 9, 2015, Plaintiff published the following literary work on
8 his personal online blog and Twitter.com account, “Three streets named Bruce Jenner
9 might have to change names. And one could go from a Cul-de-Sac to a Cul-de-
10 Sackless.” (“Joke #4”). Plaintiff wrote and posted Joke #4 from his home in this
11 District.

12 24. Based on information and belief, on or about June 9, 2015 after Plaintiff
13 had written and posted Joke #4, Joke #4 was featured in the monologue segment of the
14 “Conan” show which was aimed, directed and aired to a national audience which
15 included audiences within this District.

16 25. Based on the foregoing, Defendants and each of them purposefully directed
17 their activities at this District and have purposefully availed themselves of the privilege
18 of conducting activities in this District.

19 26 Plaintiff has filed copyright applications to for each of the aforementioned
20 literary works with the United States Copyright Office on March 10, 2015, March 11,
21 2015, June 26, 201, July 8, 2015 and August 10, 2016. Plaintiff's applications are
22 pending with the Copyright Office.

23 27. Plaintiff did not receive any compensation for the use of these works.
24 Plaintiff did not receive any screen credits for the use of these works. Plaintiff did not
25 receive any writing credits for the use of these works.

26 **FIRST CAUSE OF ACTION**
27 **COPYRIGHT INFRINGEMENT**
28

1 28. Plaintiff incorporates herein by reference the allegations set forth in
2 paragraphs 1 through 27 of this complaint.

3 29. Defendants, and each of them, have infringed upon Plaintiff's literary
4 works created and owned by Plaintiff, for which copyright registration is being sought,
5 by featuring the work on the "Conan" show without consent, approval or license of
6 Plaintiff and by continuing to distribute and copy the commercial without compensation
7 or credit to Plaintiff.

8 30. As a direct and proximate result of said infringement by Defendants,
9 Plaintiff is entitled to damages in an amount to be proven at trial.

10 31. Defendants' infringement of Plaintiff's literary works has yielded
11 Defendants' profits in an amount thus far not determined.

12 32. Defendants' infringement has been willful and deliberate and was done for
13 the purpose of making commercial use of and profit on Plaintiff's material and to
14 entertain audiences throughout the country and within this Judicial District; Defendants'
15 knew Plaintiff was a resident of this District. Plaintiff is entitled to recover increased
16 damages as a result of such willful copying.

17 33. Plaintiff is further entitled to attorneys' fees and full costs pursuant to 17
18 U.S.C. § 505 and otherwise according to law.

19 34. As a direct and proximate result of the foregoing acts and conduct,
20 Plaintiff has sustained and will continue to sustain substantial, immediate, and
21 irreparable injury, for which there is no adequate remedy at law. Plaintiff is informed
22 and believes, and on that basis avers, that unless enjoined and restrained by this Court,
23 Defendants will continue to infringe Plaintiff's rights in the infringed works. Plaintiffs
24 are entitled to preliminary and permanent injunctive relief to restrain and enjoin
25 Defendants' continuing infringing conduct.

26
27 WHEREFORE , Plaintiff does demand:
28

1 A. That, pursuant to 17 U.S.C. § 502(a), Defendants, their agents, servants and
2 employees and all parties in privity with them be enjoined permanently from infringing
3 Plaintiff's copyrights in any manner, including but not limited to the copying,
4 manufacturing, printing, reprinting, publishing, distributing, selling, promoting or
5 advertising any copies of the copyrighted work or by causing and/or participating in
6 such manufacture, reprinting, publishing, distributing, selling, promoting or advertising
7 of others.

8 B. That, pursuant to 17 U.S.C. § 504(b), Defendants be required to pay to the
9 Plaintiff, such actual damages as the Plaintiff may have sustained in consequence of
10 Defendants' infringement and all profits of Defendants that are attributable to the
11 infringement of Plaintiff's copyrights believed to be in excess of \$600,000.00. Plaintiff
12 requests Defendants account for all gains, profits, and advantages derived by
13 Defendants from his infringement including profits of all sales of Defendants since the
14 date of first commercial release.

15 C. That, pursuant to 17 U.S.C. § 504(c)(1), Defendants be required to pay an
16 award of statutory damages in a sum of not less than \$30,000.00 should this statutory
17 remedy be elected.

18 D. That, the Court finds that Defendants' conduct was committed willfully.

19 E. That, pursuant to 17 U.S.C. § 504(c)(2), Defendants be required to pay an
20 award of increased statutory damages in a sum of not less than \$150,000.00 for willful
21 infringement should this statutory remedy be elected.

22 F. That, pursuant to 17 U.S.C. § 505, Defendants be required to pay the
23 Plaintiff's full costs in this action and reasonable attorney's fees to Plaintiff's attorney.

24 G. That Defendants' conduct was willful or wanton and done in reckless
25 disregard of Plaintiff's rights thereby entitling Plaintiff to recover punitive damages in
26 an amount to be determined at trial.

27 H. Plaintiff has other and further relief as this Court may deem just and
28 appropriate under the circumstances.

I. For prejudgment interest according to law.

DEMAND FOR JURY TRIAL

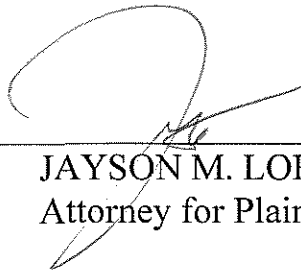
TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Plaintiff KASEBERG demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) and Local Rule 38-1.

Date:

9/30/2016

By:



JAYSON M. LORENZO
Attorney for Plaintiff